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| 10/528,179 | 03/17/2005 | Yuji Yoshimura | 268119US0PCT | 6504 |

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| EXAMINER |
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SEAMAN, D MARGARET M

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| ART UNIT | PAPER NUMBER |
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1625

| SHORTENED STATUTORY PERIOD OF RESPONSE | NOTIFICATION DATE | DELIVERY MODE |
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DETAILED ACTION

1. This application was filed 3/17/2005 and is a 371 of PCT/JP03/11643 (9/11/2003) which claims priority to JP 2002-275015 (9/11/2002). Claim 8 remains withdrawn from consideration. Claims 1-7 are before the Examiner. RCE papers were filed 12/27/2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda (US Patent 5939552), Nagamatsu (1999), Chen (US Patent 6835838) and Onishi (US Patent #6946557) in view of Gebauer (CA 129:197349, 1998), Davey (CA 117:229369), Iwuagwu (CA 105:178553), Peng (CA 99:110835), Wang (CA 97:203288), Hara (CA 93:185599) and Thiem (CA 89:175853).

As previously stated, Ikeda teaches simulated moving bed chromatographic process (see abstract) for the resolution of the instant compound (col 4 line 40) using a mixed solvent (column 6 lines 46-47) and silica gel of a certain particle size (col 6 lines 10-30). Nagamatsu teaches the same process (see abstract,, pages 55, 56, 58). Onishi

teaches the same process (see column 3 line 15, col4 line 10, col 6 lines 33-35, col 7 line 30, col 8 line 14). Chen teaches the same process using HPLC: Chiralpak AD; eluent, hexane/I-PrOH see col 17 line45). These references fully teach the instant invention with the exception of the silica gel as packing material being uncoated.


Gebauer(CA 129:197349, 1998), Davey (CA 117:229369), Iwuagwu (CA 105:178553), Peng (CA 99:110835), Wang (CA 97:203288), Hara (CA 93:185599) and Thiem (CA 89:175853) all teach the use of uncoated silica gel being used to separate compounds, including isomers and epimers.

Optical resolution of a racemic mixture separates one specific compound (one epimer) from a mixture of compounds (epimers). The art teaches silica gel as the packing material and than uncoated silica gel is used frequently by the ordinary artisan.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Margaret Seaman whose telephone number is 571-272-0694. The examiner can normally be reached on 730am-4pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas McKenzie can be reached on 571-272-0670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


D. Margaret Seaman
Primary Examiner
Art Unit 1625

dms